

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 1672 - HB 1726

February 23, 2016

SUMMARY OF BILL: Defines “designer” as a construction design professional under contract with a state agency defined as the University of Tennessee (UT), the Tennessee Board of Regents (TBR), or the State of Tennessee Real Estate and Asset Management (STREAM) Division of the Department of General Services (DGS).

Authorizes a designer who has approved design fees for the program phase, schematic design phase, design development phase, construction document phase, and bidding and negotiation phase to invoice the appropriate state agency on a monthly basis either on a percentage-of-completion basis for a particular phase or in an amount prorated over the anticipated time required to complete a particular phase. Requires the state agency to pay the designer within 30 days of being properly invoiced and in accordance with the Prompt Pay Act of 1985. Specifies how payments and fees are to be made to a designer.

Prohibits a designer using building information modeling (BIM) on a design and construction project from increasing fees. Authorizes the inclusion of BIM deliverables, at the minimum levels of development equivalent to or less than the American Institute of Architects (AIA) Level of Development (LOD) 300, to be in the basic services fee. Entitles a designer to receive additional compensation for providing (1) BIM at a higher level of development above LOD 300; (2) requests for additional embedded data in a model, such as COBie or other formats, whether data-based or geometrically based; (3) software licenses; and (4) further model development and enhanced during the construction phase. Requires the State to compensate a designer for 64 specific services outlined in the proposed legislation.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – Exceeds \$31,697,900

Assumptions:

- Based on information from STREAM, the University of Tennessee (UT), the Tennessee Board of Regents (TBR), and the Department of Finance and Administration’s (F&A) Office of Capital Accounting, additional personnel for each agency will be required in order to review, process, reconcile, validate the accuracy of invoices, determine appropriate funding sources and adequacy of project funding, pay, and filing of the documentation relative to the increase in monthly invoices. The average cost per employee is estimated to be \$87,500 for salary and benefits.

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- A total of 19 additional positions [(STREAM – 7), (UT – 6), (TBR - 4), and (F&A – 2)] will be required resulting in a recurring increase in state expenditures of \$1,662,500 (\$87,500 x 19 positions).
- Under the proposed legislation, industry standard services and other additional services that are currently included in designers' basic services fees will no longer be included in designers' basic services fees.
- Designers will be authorized to invoice state agencies for 64 specific services as listed in the bill which will result designers charging individual fees for separate service items when many services are lumped together into a total package of services under current law for which the state receives relative better pricing.
- Based on information provided by UT, allowing a designer to bill separately for 64 additional services will increase state expenditures for UT by an average of 25 percent, which equates to an increase in state expenditures of \$4,949,815 for FY16-17; \$5,275,936 for FY17-18; \$6,232,735 for FY18-19; \$6,206,784 for FY19-20; and \$5,457,676 for FY20-21; for an average increase in state expenditures for UT of \$5,624,589
- Based on information provided by TBR, allowing a designer to bill separately for 64 additional services will increase state expenditures for TBR by an average of 25 percent, which equates to an increase in state expenditures of \$8,396,460 for FY16-17; \$9,933,900 for FY17-18; \$10,100,850 for FY18-19; \$8,193,350 for FY19-20; and \$10,429,325 for FY20-21; for an average increase state expenditures for TBR of \$9,410,777.
- Given the magnitude of the estimated increase in state expenditures for both UT and TBR, it is assumed additional recurring appropriations of approximately \$15,035,366 (\$5,624,589 + \$9,410,777) will be required to the university systems.
- Based on information provided by DGS, allowing a designer to bill separately for 64 additional services will increase state expenditures by approximately \$15,000,000 on 277 active designer agreements and would increase the workload for processing designers' invoices to DGS by 50 percent.
- The total recurring increase in state expenditures is estimated to exceed \$31,697,866 (\$1,662,500 + \$15,035,366 + \$15,000,000).

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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